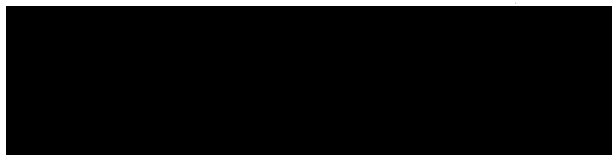




U.S. Citizenship
and Immigration
Services



File: [REDACTED] Office: TEXAS SERVICE CENTER Date:

AUG 25 2004

IN RE: Petitioner:
Beneficiary:



Petition: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

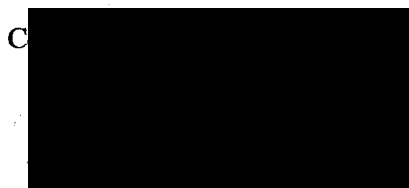
IN BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office



identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected as untimely filed.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

The record indicates that the director issued the decision on September 22, 2003. It is noted that the director properly gave notice to the petitioner that it had 33 days to file the appeal. The appeal was received by Citizenship and Immigration Services (CIS) on October 30, 2003, or 37 days after the decision was issued. Accordingly, the appeal was untimely filed.

Moreover, 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

(B) *Meaning of affected party.* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* (in addition to Citizenship and Immigration Services [CIS]) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

8 C.F.R. § 103.3(a)(2)(v) states:

Improperly filed appeal -- (A) Appeal filed by person or entity not entitled to file it -- (1) Rejection without refund of filing fee. An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee CIS has accepted will not be refunded.

The alien beneficiary, through counsel, signed the Form I-290B Notice of Appeal. The Form G-28, Notice of Entry of Appearance as Attorney or Representative submitted with the appeal indicates that counsel represents the beneficiary, not the petitioner. As indicated in the regulation cited above, because the beneficiary is not an affected party, the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(I) indicates that the appeal was not properly filed.

Finally, even if not rejected for being untimely or for lack of standing, we note that counsel has failed to identify specifically any erroneous conclusion of law or statement of fact for the appeal. On the Form I-290B Notice of Appeal, the reason stated by counsel for appeal is: "Appeal is made to preserve the record." In the absence of any detailed allegation specifying a particular error of fact, law, or Citizenship and Immigration Service policy made by the director, we cannot find that the submission qualifies as a substantive appeal. Inasmuch as counsel failed to identify any errors made by the director, the appeal would be summarily dismissed even if it were not rejected as untimely filed or for lack of standing.

As the appeal was untimely filed, and because it was filed by an improper party, the appeal must be rejected.

ORDER: The appeal is rejected.